

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**REYNOLDS METALS COMPANY**

**d/b/a LAKE CHARLES CARBON COMPANY**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT**

**LA. R.S. 30:2001, ET SEQ.**

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\* **Enforcement Tracking Nos.**

\* **AE-C-00-0407**

\* **AE-C-00-0407A**

\* **AE-CN-01-0313**

\* **WE-CN-01-0443**

\* **WE-CN-01-0443A**

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**SETTLEMENT AGREEMENT**

The following Settlement is hereby agreed to between Reynolds Metals Company ("Respondent") and the Department of Environmental Quality ("Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (the "Act").

**I.**

Respondent is a corporation that operates a petroleum coke calcining and anode production facility at 3943 Granger Road, Lake Charles, Calcasieu Parish, Louisiana. The facility operates under air emissions and wastewater permits as follows.

Air Permit: At the time of issuance of the relevant Compliance Orders and Notices of Potential Penalties, the facility operated under Air Permit No. 0520-00011-06 issued on November 22, 2000. Respondent thereafter submitted an application for a minor modification of the permit that was issued on February 6, 2003 as Air Permit No. 0520-00011-07 and that the facility operates under today. Permit 07 completed a reconciliation of the facility's permit with the results of a comprehensive review of facility emissions and incorporated a modification to

add a second saw blade on the anode grooving saw and to remove a gasoline storage tank. The permit action also amended the primary aluminum MACT limit for the anode baking furnaces and the parametric monitoring limits for the anode bake plant and paste production plant. The facility was divided into six functional operations: raw material and product handling, storage and transfer operations; coke calcining operations; anode material recycling and preparation; anode production; anode baking and storage operations; and facility support and maintenance operations. In addition, Respondent had submitted a Part 70 Air Permit Application on October 15, 1996 and updated the application on May 6, 2003 that is currently under review.

LPDES Permit: Respondent operates under Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0003735 effective July 1, 1998 with an expiration date of June 30, 2003. LPDES permit LA0003735 authorizes Respondent to discharge treated process and utility wastewaters, laboratory and treated sanitary wastewater, vehicle washwater and stormwater runoff to the Industrial Canal, thence to the Calcasieu River, both waters of the state. Respondent filed a timely renewal application on July 6, 2001 that is currently under review.

## **II.**

On May 3, 2000, Alcoa Inc. purchased the stock of Reynolds Metals Company, owner of Lake Charles Carbon Company. Shortly thereafter, Respondent commenced an internal review of environmental management systems at the facility. During the course of the review, Respondent requested a meeting with the Department later held on July 25, 2000 to disclose preliminary findings. At the meeting, Respondent agreed to continue the evaluation and, upon completion, to provide the results to the Department. On October 12, 2000, Respondent met again with the Department to voluntarily disclose its analysis. At the request of the Department, Respondent also provided a detailed written report on December 8, 2000. Those reports provided

a detailed voluntary disclosure of the results of the internal review of environmental management systems.

### **III.**

After meeting with the Respondents and reviewing the submitted information, on January 30, 2001, the Department issued Compliance Order No. AE-C-00-0407, attached hereto and made a part of this Settlement Agreement, for potential violations voluntarily disclosed to the Department. The Department later amended this Order on May 7, 2001, No. AE-C-00-0407A. Copies of each are attached hereto and made a part of this Settlement Agreement. These are final enforcement actions and not subject to further administrative review.

### **IV.**

The January 30, 2001, Compliance Order, as amended on May 7, 2001, noted potential violations based on the voluntary disclosures made by Respondent. These included, among others, the identification of unpermitted emissions sources and modifications, improper quantification of emissions from certain sources, exceedances of permit limits, exceedances of Primary Aluminum MACT limits, inconsistencies with the Air Toxics Compliance Plan, excess emissions of various criteria pollutants at certain emissions points and recordkeeping and reporting deficiencies.

### **V.**

Prior to issuance of the Compliance Order, Respondent and the Department agreed upon a course of action to reconcile the permit with historical facility operations and to ensure full compliance. Consequently, in the Order, the Department required Respondent to complete the internal inventory of emissions, to conduct a full compliance review of applicable requirements of NESHAP Subpart LL, the State MACT Determination and the Air Toxics Compliance Plan,

to quantify historical emissions exceedances and to submit a plan to come into full compliance.

## **VI.**

Commencing during the internal review and prior to issuance of the Compliance Order, Respondent voluntarily implemented appropriate corrective actions and additional activities as set forth in the Order, as amended, and in numerous submissions further evaluating and explaining the information provided in the disclosures. Since issuance of the Compliance Order, Respondent fully completed its obligations under the Order, as amended. By letter dated March 28, 2003, Respondent provided its final summary of the actions taken and requested closure of the Order. After thorough review of the actions taken by Respondent, the Department has determined that Respondent timely performed all required actions under the Compliance Order, as amended, in a manner that it has determined fully met the Order's requirements.

## **VII.**

During the initial meetings, the Department also requested that Respondent perform a review of historical facility changes. Respondent voluntarily conducted a thorough review of historical changes and an extensive evaluation of whether the New Source Performance Standards, Prevention of Significant Deterioration and Nonattainment New Source Review provisions were triggered by any change. Respondent initially conferred with the Department on December 4, 2001 during the preliminary stages of this evaluation and committed to continue this review. On February 15, 2002, Respondent submitted a description of the changes along with a regulatory analysis and met with the Department on the same day. Based solely upon its review, Respondent contends as follows: Though a modification in 1979, during a predecessor's ownership, may have resulted in an increase in emissions of carbon monoxide above the significance level, the review of facility changes and regulatory analysis did not otherwise reveal

a trigger or violation of the New Source Performance Standards, Prevention of Significant Deterioration or Nonattainment New Source Requirements or any other statutory or regulatory requirement. Respondent further contends that, regarding the increase in emissions of carbon monoxide, the facility already had in place Best Available Control Technology for carbon monoxide, i.e., good combustion practices. Furthermore, in prior submissions, and in the current Air Permit Briefing Sheet for Air Permit No. 0520-00011-07, most recently issued February 6, 2003, the Department concluded that “[t]his application was reviewed for compliance with Louisiana Air Quality Regulations and NESHAP. New Source Performance Standards (NSPS) and Prevention of Significant Deterioration (PSD) do not apply.”

### **VIII.**

On or about February 13-15, 2001, an inspection of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. Based on that inspection, on August 17, 2002, the Department issued Consolidated Compliance Order and Notice of Potential Penalty No. AE-CN-01-0313 for alleged violations of the Act. The allegations forming the basis of this CONOPP included failure to perform semi-annual inspections of the C6/C7 Conveyor Dust Collector and the Anode Cleaning Filter Dust silo during year 2000 and failure to use the dust collector during transfer of calcined coke to the Paste Plant. A copy of AE-CN-01-0313 is attached hereto and made a part of this Settlement Agreement.

### **IX.**

Respondent, on October 9, 2002, submitted a letter detailing actions taken at the time of the inspection and also in response to the CONOPP. Nevertheless, Respondent took additional steps to ensure that all required semi-annual inspections of dust collectors are conducted timely

and completely by, for instance, implementing a newly developed maintenance tracking system.

Further, to ensure continuous operation of the dust collector, the facility re-configured the control system and made certain other minor changes as specified in the letter of October 9, 2002.

## **X.**

As part of Respondent's internal review, on February 15, 2000, it also voluntarily disclosed a limited number of potential violations of the Act related to wastewater and stormwater discharges. These were incorporated into a Compliance Order and Notice of Potential Penalty as set forth below.

## **XI.**

On December 7, 2001, the Department issued Consolidated Compliance Order and Notice of Potential Penalty No. WE-CN-01-0443. Thereafter, Respondent provided additional information regarding the submission of noncompliance reports and excursions. After reviewing and evaluating the information, the Department issued an amended Compliance Order and Notice of Potential Penalty No. WE-CN-01-0443A on March 11, 2003. Both WE-CN-01-0443 and WE-CN-01-0443A are attached hereto and made a part of this Settlement Agreement.

## **XII.**

While contesting certain provisions of the Order, Respondent nevertheless provided a detailed report fully discussing and explaining each alleged violation on January 9, 2002. On January 9, 2002, Respondent filed its request for an adjudicatory hearing regarding the

allegations of excessive product in a storm drain, failure to submit noncompliance reports and use of procedures for analyzing fecal coliform inconsistent with Standard Methods.

### **XIII.**

Prior to issuance of the CONOPP, the Respondent advised the Department that it had already engaged an environmental consulting firm to assist in determining factors potentially contributing to the previously described exceedances and to develop and implement an engineering solution. In addition, the Respondent had covered inactive coke piles that were identified as potential sources of TSS in stormwater. In an abundance of caution and though not required, the Respondent also voluntarily took additional steps to ensure improved stormwater quality, as follows:

- (1) Installed 25 micron filter cloth around stormwater catch basins;
- (2) Utilized cloth filtration prior to the chemical coagulation treatment system for Outfall A14;
- (3) Utilized hay bales throughout the facility to collect particulate suspended in stormwater;
- (4) Reduced and continues to reduce raw material inventory;
- (5) Improved material handling conveyor systems to reduce fugitive particulate losses;
- (6) Completed a pilot plant study to demonstrate effectiveness of a proposed design of polymer technology to remove TSS in stormwater prior to discharge at Outfall 002;
- (7) Paved additional areas for access to road sweeper;
- (8) Prepared and implemented a new barge dock housekeeping Standard Operating Procedure (SOP);
- (9) Placed an increased emphasis on housekeeping practices to reduce the potential of TSS reaching stormwater catch basins; and
- (10) Characterized sources of wastewaters and submitted an updated LPDES permit application.

Respondent's additional actions are further described in letters to the Department of January 2, 2003 and June 30, 2003.

### **XIV.**

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties under the federal Clean Air Act, the federal Clean Water Act and the LEQA, and under regulations promulgated under each.

## **XV.**

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIFTY THOUSAND DOLLARS (\$50,000.00), in full and complete settlement of any claims set forth in this agreement and as set forth below. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1). After examination of the “Nine Factors” pursuant to La. R.S. 30:2025(E)(3), the voluntary disclosures, the voluntary actions taken to protect the environment and achieve full compliance and the cooperation of the Respondent, the Department has determined that the cash payment should be accepted as full and complete settlement of any claims, violations or matters set forth in this Agreement and the Compliance Orders and/or Notices of Potential Penalties referenced herein.

## **XVI.**

Respondent further agrees that the Department may consider the inspection reports, the Penalty and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history. The Department acknowledges that Alcoa, Inc., purchased Reynolds Metals Company on May 3, 2000, and agrees that Alcoa,



Inc. is not bound by the terms of the preceding sentence.

**XVII.**

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement. Respondent, however, expressly reserves the right to administrative or judicial review of the actions of the Department acting upon, interpreting and/or applying the terms of this Settlement.

**XVIII.**

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing.

**XIX.**

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority of Calcasieu Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

**XX.**

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services

Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

**XXI.**

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

**XXII.**

This Settlement is intended to constitute a compromise and settlement, without any admission of or acknowledgment by Respondent that any violations occurred, or that it is liable for any violations, and is being executed in the interest of settling the State's claims and avoiding for both parties the expense and effort in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R.S. 30:2025(E) of the Act and in LAC 33:I. Chapter 7.

**XXIII.**

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Jerry J. Little

RESPONDENT

BY: Russell W. Porter  
Reynolds Metals Company  
d/b/a Lake Charles Carbon Company

Russell W. Porter, Jr.

(Printed)

Margaret F. Novack

TITLE: Vice President

THUS DONE AND SIGNED in duplicate original before me this 16<sup>th</sup> day of  
September, 2003, in PITTSBURGH, PA.

Notarial Seal  
Jacqueline L. Murtha, Notary Public  
City Of Pittsburgh, Allegheny County  
My Commission Expires Jan. 24, 2007  
Member, Pennsylvania Association Of Notaries

Jacqueline L. Murtha  
NOTARY PUBLIC

WITNESSES:

Don L. Ginn  
Legg N. Hatch

STATE OF LOUISIANA

L. Hall Bohlinger, Secretary  
Department of Environmental Quality

BY: R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 9<sup>th</sup> day of  
December, 2003, in Baton Rouge, Louisiana.

A. J. R.  
NOTARY PUBLIC

Approved:

R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary

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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

RICHARD P. IEYOUB  
ATTORNEY GENERAL

DATED: 12-3-03

BY:   
ASSISTANT ATTORNEY GENERAL